

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Valentina Concha-Toro	Team: Squad #15	CCRB Case #: 202002456	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/14/2020 9:40 PM	Location of Incident: Ralph Avenue and Fulton Street	18 Mo. SOL 5/1/2022	Precinct: 73		
Date/Time CV Reported Mon, 03/16/2020 1:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/01/2020 11:11 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Brian Ramirez	22014	946143	PBBN SU
2. POF Nadia Thomas	22193	962839	073 PCT
3. SGT Samuel Hui	3588	953978	075 DET

Officer(s)	Allegation	Investigator Recommendation
A . PO Brian Ramirez	Abuse: Police Officer Brian Ramirez stopped § 87(2)(b)	
B . SGT Samuel Hui	Abuse: Sergeant Samuel Hui stopped § 87(2)(b)	
C . PO Brian Ramirez	Abuse: Police Officer Brian Ramirez drew his gun.	
D . PO Brian Ramirez	Force: Police Officer Brian Ramirez pointed his gun at § 87(2)(b)	
E . SGT Samuel Hui	Abuse: Sergeant Samuel Hui searched § 87(2)(b)	
F . PO Brian Ramirez	Abuse: Police Officer Brian Ramirez stopped § 87(2)(b)	
G . PO Brian Ramirez	Abuse: Police Officer Brian Ramirez frisked § 87(2)(b)	
H . PO Brian Ramirez	Abuse: Police Officer Brian Ramirez failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On March 16, 2020, § 87(2)(b) submitted this complaint to IAB on behalf of her son, § 87(2)(b). On April 1, 2020, the CCRB received this complaint via IAB log # § 87(2)(b).

At approximately 9:40 p.m. on March 14, 2020, 15-year-old § 87(2)(b) was standing at the corner of Fulton Street and Ralph Avenue, Brooklyn, with five other male individuals. Sgt. Samuel Hui, PO Nadia Thomas and PO Brian Ramirez from the 73rd Precinct were patrolling in an unmarked vehicle. PO Ramirez and Sgt. Hui stopped § 87(2)(b) (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). In the process of stopping § 87(2)(b) PO Ramirez drew his firearm (**Allegation C: Abuse of Authority, § 87(2)(g)**) and allegedly pointed it at § 87(2)(b) (**Allegation D: Force, § 87(2)(g)**). PO Ramirez placed § 87(2)(b) in handcuffs. Sgt. Hui allegedly searched § 87(2)(b) (**Allegation E: Abuse of Authority, § 87(2)(g)**). One of the individuals who had been with § 87(2)(b) approached. PO Ramirez stopped the individual and frisked him (**Allegations F and G: Abuse of Authority, § 87(2)(g)**). PO Ramirez did not provide the individual with a Right to Know Act businesses card (**Allegation H: Abuse of Authority, § 87(2)(g)**). Sgt. Hui made the determination to remove § 87(2)(b) to the 73rd Precinct stationhouse because he was a minor. At the 73rd Stationhouse PO Ramirez prepared a juvenile report. § 87(2)(b) was released into § 87(2)(b) custody.

§ 87(2)(g), § 87(4-b)

Four Body-Worn Camera (BWC) videos were obtained (Board Review 01) as well as two cellphone videos provided by § 87(2)(b) (Board Reviews 02 and 03).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Brian Ramirez stopped § 87(2)(b).

Allegation (B) Abuse of Authority: Sergeant Samuel Hui stopped § 87(2)(b).

Allegation (E) Abuse of Authority: Sergeant Samuel Hui searched § 87(2)(b).

It is undisputed that at approximately 9:40 p.m. on March 14, 2020, 15-year-old § 87(2)(b) and four other individuals were standing on the corner of Fulton Street and Ralph Avenue in Brooklyn. The intersection of Ralph Avenue and Fulton Street was well illuminated. Sgt Hui was operating an unmarked patrol vehicle, PO Ramirez was in the front passenger seat, and PO Thomas was in the rear seat behind Sgt. Hui. All three were dressed in plain clothes. There had not been any 9-1-1 call in regard to any emergency regarding a firearm or weapon earlier in the day. There had not been any 9-1-1 call in regard to § 87(2)(b) or the group of individuals (Board Review 04). While inside of the vehicle, PO Ramirez notified Sgt. Hui that he believed § 87(2)(b) to be in possession of a weapon but did not provide any detail about why he suspected such. Sgt. Hui stopped the unmarked vehicle in front of the group and ignited the emergency lights. PO Ramirez exited the vehicle, announced he was police and told § 87(2)(b) to stop. § 87(2)(b) ran down Fulton Street and PO Ramirez followed. § 87(2)(b) dropped his keys, turned around to pick them up, and saw PO Ramirez with his service weapon in hand (Allegations C and D discussed below). § 87(2)(b) stopped and laid on the ground. PO Ramirez placed him in handcuffs. Sgt. Hui approached § 87(2)(b).

§ 87(2)(b) and stood him up. § 87(2)(b) was taken to the 73rd Precinct stationhouse and a juvenile report was prepared (Board Review 05).

§ 87(2)(b) stated (Board Review 06) that he had been wearing a jacket, a grey sweatshirt, and grey sweatpants with two front pockets and one rear pocket. He had his cellphone in one of the front pants pockets and his keys but did not know where he had them. § 87(2)(b) denied he had anything else on his person, including a firearm. § 87(2)(b) ran after seeing the officers exit the unmarked vehicle, but he did not know why he did so. PO Ramirez placed him in handcuffs as he was lying face down on the ground. Sgt. Hui approached and placed his hands inside of § 87(2)(b) rear pockets. § 87(2)(b) stood up and Sgt. Hui touched the front of § 87(2)(b) chest, his arms, his legs, his waist pocket area, and his jacket pocket area. Sgt. Hui then placed his hands inside of the two front pockets of § 87(2)(b) jacket.

§ 87(2)(b) was not able to be contacted and thus no other civilian statement was obtained.

On September 24, 2021, PO Ramirez was interviewed at the CCRB (Board Review 07), but due to technical issues the interview was not recorded. On November 17, 2021, PO Ramirez was re-interviewed (Board Review 08). Both of PO Ramirez's statements were generally consistent. In both interviews PO Ramirez stated that there had been a recent increase of armed robberies in the vicinity of Ralph Avenue and Fulton Street. He did not recall the timeline of the increase of robberies, and other than being informed to "keep an eye out," there had not been any command instructions about how to proceed with the condition. PO Ramirez did not recall any specific pedigree descriptions about any of the suspects involved in the robberies. Other than standing, § 87(2)(b) and the other individuals had not been doing anything in particular. He did not recall what § 87(2)(b) was wearing. In his first interview (Board Review 07), PO Ramirez stated § 87(2)(b) saw the unmarked patrol vehicle and grasped the front, right area of his waist band. PO Ramirez observed a rectangular shape outlined beneath § 87(2)(b) clothes. In his second interview (Board Review 08) PO Ramirez stated that as Sgt. Hui slowed down the vehicle, PO Ramirez observed a bulge in the front area of § 87(2)(b) waist band. After the patrol vehicle came to a stop, § 87(2)(b) grasped the object over his clothes. PO Ramirez was not able to provide any description of the size or shape of the object other than it being a "bulge." Due to his knowledge of the increased frequency of robberies, § 87(2)(b) grasping the object on top of his clothes, and the object having been in the front waist band area, PO Ramirez believed § 87(2)(b) had a firearm. There were no other factors which lead PO Ramirez to believe the object was a firearm. As PO Ramirez was following § 87(2)(b) he heard a large object fall and believed § 87(2)(b) had either thrown or dropped the firearm. As soon as § 87(2)(b) was placed in handcuffs, PO Ramirez walked away to canvass the area which he believed the firearm had fallen. PO Ramirez did not observe Sgt. Hui with § 87(2)(b). PO Ramirez did not recall Sgt. Hui or any other officer having placed their hands inside of § 87(2)(b) rear pants pockets. PO Ramirez did not recall whether Sgt. Hui or any other officer touched the front of § 87(2)(b) chest, his arms, waist, and front pockets area. PO Ramirez did not recall whether Sgt. Hui or any other officer placing their hands in the front of § 87(2)(b) jacket pockets.

Sgt. Hui stated (Board Review 09) that PO Ramirez did not provide any details about the object he had seen or why he believed it to be a firearm. Sgt. Hui stopped the vehicle in front of the group and turned on the emergency lights for the group to know that they were police. There was no discussion in the vehicle about how to proceed or that PO Ramirez was going to exit the vehicle. Sgt. Hui did not have any personal suspicion that § 87(2)(b) was in possession of a firearm prior to PO Ramirez's mention, and after that Sgt. Hui was not able to observe anything that

indicated § 87(2)(b) was in possession of a firearm. Sgt. Hui did not recall whether PO Ramirez informed him of what he had observed after the incident. Sgt. Hui did not recall he or any other officer placed hands inside of § 87(2)(b) rear pants pockets and then jacket pockets. Sgt. Hui did not recall placing his hands inside any of § 87(2)(b) pockets. Sgt. Hui's BWC video (Board Review 01) was shown in the interview, but it did not refresh Sgt. Hui's recollection.

PO Thomas stated (Board Review 10) that PO Ramirez informed her and Sgt. Hui that the firearm was in the waistband and pocket area but did not provide a description about the item. PO Thomas did not recall any other specifics. PO Thomas did not observe Sgt. Hui place his hands inside of § 87(2)(b) rear pants pockets or jacket pockets.

At the beginning of PO Ramirez's BWC video (Board Review 01), the reflection of the patrol vehicle's emergency lights are seen from inside the vehicle, but at this point of the video there is no audio. By the time PO Ramirez exits the vehicle, § 87(2)(b) has walked away thus the front of his body is not visible. The audio begins after § 87(2)(b) and PO Ramirez begin running. At internal timestamp 21:41:41, PO Ramirez tells § 87(2)(b) "Now get down on the floor." PO Ramirez asks § 87(2)(b) why he ran after he had "identified [himself]." Sgt. Hui's BWC video (Board Review 01) captures Sgt. Hui approaching § 87(2)(b) who is on the ground face down. As Sgt. Hui bends down toward § 87(2)(b) the video darkens and whether Sgt. Hui places his hands inside of § 87(2)(b) rear pockets is not seen. Sgt. Hui touches the outside of § 87(2)(b) front pockets. § 87(2)(b) is stood up and Sgt. Hui continues touching the front of § 87(2)(b) body on top of his clothing. The frame of the BWC video does not capture the lower portion of § 87(2)(b) jacket and therefore it is not seen whether Sgt. Hui places his hands inside of the jacket pockets.

The juvenile report citing OGA was prepared for § 87(2)(b) (Board Review 05). The report noted that police officers observed § 87(2)(b) with a suspicious bulge "consistent with the same shape and size of a firearm," but no details about the object's appearance were noted.

It was determined that Sgt. Hui and PO Ramirez attempted to stop § 87(2)(b) before he ran by turning on the emergency lights and instructing § 87(2)(b) to stop. PO Ramirez followed § 87(2)(b) on foot and Sgt. Hui followed in the patrol vehicle. As soon as § 87(2)(b) was placed in handcuffs, Sgt. Hui approached him.

According to People v. De Bour, 40 N.Y.2d 210 (Board Review 11), an officer may forcibly stop and detain a person if the officer has reasonable suspicion that the person has committed, is committing or is about to commit a felony or misdemeanor.

According to People v. Stevenson, 7 A.D. 3d 820 (Board Review 12), an officer's observation of a waistband bulge and the adjusting of the clothes around it alone, with no details indicating that the bulge had an outline of a firearm, was not sufficient to determine reasonable suspicion. In the absence of any other information indicative of criminality the observation justified a common-law to inquiry, but the stop and frisk was not justified.

§ 87(2)(g) § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(g)

While the investigation determined that Sgt. Hui was the officer who approached § 87(2)(b) when he was handcuffed and face down on the sidewalk, § 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Brian Ramirez drew his gun.
Allegation (D) Force: Police Officer Brian Ramirez pointed his gun at § 87(2)(b).

It is undisputed that § 87(2)(b) ran from PO Ramirez and the unmarked patrol vehicle. PO Ramirez followed § 87(2)(b) down the block and across the street. Parked on one side of the street were multiple large vehicles and trucks. The area where the vehicles were parked was not well illuminated. § 87(2)(b) ran onto the sidewalk and PO Ramirez lost sight of § 87(2)(b). PO Ramirez drew his firearm from its holster while continuing to run after § 87(2)(b). § 87(2)(b) dropped his keys, saw the firearm and laid down on the floor. It remains in dispute whether PO Ramirez pointed the firearm at § 87(2)(b).

§ 87(2)(b) stated (Board Review 06) that once he ran across the street, he dropped his keys. He stopped and turned around to pick up the keys and saw PO Ramirez behind him. PO Ramirez told § 87(2)(b) to “get on the floor.” PO Ramirez held his firearm in both hands and had it aimed at his chest. § 87(2)(b) laid down on the floor, face down. PO Ramirez approached, holstered his firearm and handcuffed § 87(2)(b).

PO Ramirez stated (Board Reviews 07 and 08) that he ran after § 87(2)(b) because he was suspected of having a firearm on his person. PO Ramirez did not have any reason to believe that § 87(2)(b) had more than one firearm on his person. § 87(2)(b) ran around the parked vehicles and PO Ramirez lost sight of § 87(2)(b). PO Ramirez heard a loud object hit the ground, and believed that § 87(2)(b) had discarded the firearm. PO Ramirez removed his firearm from its holster because he feared for his safety. The concerns for safety resulted from this incident involving a possible firearm and the obstructed view of § 87(2)(b) due to the parked vehicles. PO Ramirez held his service weapon pointed at the ground. PO Ramirez did not recall raising his firearm, and did not recall pointing it at § 87(2)(b).

PO Thomas stated (Board Review 10) that she was following behind PO Ramirez on foot. PO Thomas lost sight of PO Ramirez when he followed § 87(2)(b) behind the parked vehicles. PO Thomas did not observe PO Ramirez unholster his firearm and did not observe him point it at § 87(2)(b). Sgt. Hui stated (Board Review 09) that he was following PO Ramirez behind in the patrol vehicle. Sgt. Hui was concentrated in driving, and therefore did not observe PO Ramirez unholster his firearm or point it at § 87(2)(b). Neither Sgt. Hui nor PO Thomas were made aware that PO Ramirez unholstered his firearm or pointed it.

PO Ramirez's BWC video (Board Review 01) captured PO Ramirez following § 87(2)(b) across the street and behind the parked vehicles. At no point in the video are PO Ramirez's hands seen raised into the frame, nor did the video capture a firearm.

The juvenile report (Board Review 05) noted that no firearm was used during the incident by any police officer.

According to the NYPD Patrol Guide, Sections 221-01 and 221-03 (Board Review 13), drawing a firearm prematurely and unnecessarily limits an officer's options in controlling a situation and may result in an unwarranted or accidental discharge; therefore, the decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. The highest level of force – level three – is defined as deadly physical force and it is any force that is capable of causing death or serious physical injury, such as a gunshot wound. An officer may use deadly physical force against a person to protect the officer and/or the public from imminent serious physical injury or death.

While PO Ramirez unholstered his service weapon while following § 87(2)(b)

§ 87(2)(g)

PO Ramirez also noted that he only drew his firearm after what he believed to be the firearm had been discarded.

§ 87(2)(g)

Although § 87(2)(b) alleged that PO Ramirez pointed his service weapon at his chest, PO Ramirez did not recall doing so and PO Ramirez's BWC did not capture where the service weapon was pointed. § 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Brian Ramirez stopped § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer Brian Ramirez frisked § 87(2)(b)

Allegation (H) Abuse of Authority: Police Officer Brian Ramirez failed to provide § 87(2)(b) with a business card.

Starting at internal timestamp 21:42:33 in PO Ramirez's BWC video (Board Review 01), PO Ramirez is canvassing the area which he believed the firearm had been discarded. A male individual dressed in a black puff jacket approaches and identifies himself as one of the individuals from the group that was with § 87(2)(b). The male individual puts his hands up and begins walking

backward away from PO Ramirez. PO Ramirez instructs him, "Come over here," and the male individual stops. PO Ramirez asks if he has anything on him and whether he picked anything up. The male individual denies that he had. PO Ramirez's video darkens as he stands in front of the individual. There is the sound of clothes rustling. PO Ramirez tells the individual to leave the area. PO Ramirez walks away and continues canvassing the sidewalk.

During his first interview (Board Review 07), PO Ramirez initially did not have an independent recollection of interacting with another male individual other than § 87(2)(b). His BWC video was shown during the interview and PO Ramirez's recollection was refreshed. The male individual did not have anything in his hands. In one of his jacket pockets there was a bulge which created a rectangular outline. PO Ramirez believed that it was the male civilian's cellphone. Because he had approached from the area which PO Ramirez suspected § 87(2)(b) of discarding a firearm, PO Ramirez stopped the individual and asked if he had picked anything up or had anything on his person. PO Ramirez touched only the front jacket area where the bulge was. PO Ramirez determined the item to be a cellphone. At no point did PO Ramirez place his hands inside of this individual's pockets. There was no other reason PO Ramirez stopped and frisked the individual other than to determine whether he had picked up the possible firearm which § 87(2)(b) had discarded. Because § 87(2)(b) was eventually removed to the stationhouse and processed as a juvenile, there was no need to provide a RTKA business card during the incident.

During his second interview (Board Review 08) PO Ramirez provided a statement from his independent recollection which was generally consistent with his first interview. PO Ramirez did not recall whether the male individual had anything on his person or his hands. PO Ramirez did not recall any object which made a bulge in any clothing. PO Ramirez stood in front of the individual and touched the outside of his jacket pockets and felt what he recognized to be a cellphone. PO Ramirez did not enter any pockets. PO Ramirez performed this frisk to make sure he had not picked up any weapon which § 87(2)(b) was believed to have discarded. Other than approaching from the area in which § 87(2)(b) might have discarded a firearm, there were no additional reasons PO Ramirez believed that this male individual had any weapon on his person. PO Ramirez did not provide a RTKA business card to the individual he frisked. PO Ramirez did not provide a RTKA card because this incident occurred prior to the RTKA business cards, and the individual did not ask for one.

Neither Sgt. Hui nor PO Thomas (Board Reviews 09 and 10) recalled observing PO Ramirez interact with any other civilian other than § 87(2)(b). They did not recall PO Ramirez stopping and/or frisking § 87(2)(b).

§ 87(2)(b) was not able to provide any additional information about who was with him in the group, but the individual captured in the BWC video identified himself as one of the individuals that had been with § 87(2)(b) at the beginning of this incident. Since this incident was only captured on BWC and the video is not able to capture specifically where PO Ramirez placed his hands, the investigation determined to credit PO Ramirez's statement that he only touched the exterior of the clothing.

According to People v. De Bour, 40 N.Y.2d 210 (Board Review 12), an officer may forcibly stop and detain a person if the officer has reasonable suspicion that the person has committed, is committing or is about to commit a felony or misdemeanor. An officer may frisk the individual if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed.

§ 87(2)(g)

While in his first interview PO Ramirez was able to describe that the individual had a rectangular bulge in his jacket pocket, he also stated that he believed that item to be a cellphone. § 87(2)(g)

According to the Right to Know Act as defined in NYC Administrative Code, Section 14-174 (Board Review 14), an officer must offer a business card to someone at the conclusion of any law enforcement activity defined under the act, including pedestrian stops, that does not result in an arrest or summons.

PO Ramirez stated that he did not provide a RTKA card to the individual because a juvenile report had been prepared for § 87(2)(b) § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

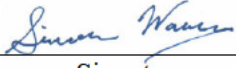
Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 19).
- PO Ramirez has been a member-of-service for 14 years and has been a subject in 10 prior CCRB complaints and 35 allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Hui has been a member of service for nine years and has been a subject in 13 prior CCRB complaints and 52 allegations, of which four were substantiated.:
 - 201610413 involved substantiated allegations of a frisk, vehicle search and discourteous action against Sgt. Hui. There was no Board recommendations, and the NYPD imposed formalized training.
 - 201904815 involved a substantiated allegation of a question against Sgt. Hui. There was no Board recommendations, and the NYPD imposed formalized training. § 87(2)(g)
- PO Thomas has been a member-of-service for five years and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of December 12, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 21).

Squad: 15

Investigator:	<u>Valentina Concha-Toro</u>	<u>Inv. Valentina Concha-Toro</u>	<u>1/26/2022</u>
	Signature	Print Title & Name	Date
Squad Leader:	<u></u>	<u>IM Simon Wang</u>	<u>02/04/22</u>
	Signature	Print Title & Name	Date

Reviewer:

Signature

Print Title & Name

Date